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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Super Teams Operating Company, Inc.
File: B-260100
Date: May 16, 1995

Anthony J. Roccograndi, Esq., Sonnenreich, Roccograndi & Woo, for the protester.
Robert E. Wilson, for ETP Inc., an interested party.
Terrence J. Tychan, Department of Health & Human Services, for the agency.
Jacqueline Maeder, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that protester's proposal, which received a technical point score of 83.3 is essentially equal to the awardee's proposal, which received a score of 86.7, is denied where the agency reasonably decided, based on a number of factors, including narrative evaluations of the proposals, that the awardee's proposal was superior to the protester's proposal.
2. Allegation that agency improperly "directed" protester to increase its travel and consultant costs is denied where record does not support the allegation and in fact the protester was invited to "address" the issue of its low proposed consultant and travel costs.

DECISION

Super Teams Operating Company, Inc. protests the award of a contract to ETP Inc. under request for proposals (RFP) No. 277-94-2025 issued by the Center for Substance Abuse Prevention (CSAP), Department of Health & Human Services, for training services in support of the National Volunteer Training Center (NVTC). The protester contends that the proposals were not evaluated correctly and that CSAP misled it during discussions.

We deny the protest.

The RFP, issued June 22, 1994, contemplated the award of a 2-year cost reimbursement contract with two 1-year options. The awardee was to provide a clearinghouse for volunteer

training information on substance abuse prevention strategies and services including, for example, developing culturally appropriate training tools for voluntary organizations and the faith community and building linkages among the community to provide effective drug problem prevention services and training.

The RFP advised that award would be made to the responsible offeror whose offer was most advantageous to the government and that technical merit was more important than price, but that price could become a significant factor in determining award if two or more technical proposals were determined to be approximately equal. The RFP provided that technical proposals were to be evaluated under the following factors, in descending order of importance: (1) technical approach; (2) personnel; (3) corporate/management capability; and (4) understanding the problem.

Eight firms submitted proposals which were evaluated and scored on a 100-point scale by an independent technical review committee. Narrative discussions of each offeror's strengths and weaknesses in each of the four evaluation factors were prepared. Super Teams's technical proposal received 83.8 points and was ranked third of the eight proposals. University Research Corp. submitted the top-ranked technical proposal, which received a score of 91.1 and ETP, the awardee and second-ranked firm received a score of 86.7.

Five proposals, including Super Teams's, University Research's and ETP's, were included in the competitive range. CSAP conducted discussions by providing each offeror with technical and business questions concerning its proposal and a common hypothetical scenario. Responses to the technical questions and hypothetical scenario were due by October 12. Cost discussions and additional limited technical negotiations were conducted by phone from November 4 through 14 and best and final offers (BAFO) were due by November 15. Among other things, Super Teams was advised that the agency considered its travel and consultant costs low and Super Teams increased these costs when it submitted its BAFO.

The technical responses and BAFOs were reviewed by agency evaluators. These evaluators did not rescore the proposals but discussed each offeror's strengths and weaknesses relating to each of the four evaluation factors. The evaluators determined that ETP's technical responses strengthened its technical proposal while Super Teams's technical responses did not enhance the technical merit of

its proposal. The technical scores and BAFO prices for the three highest-ranked technical proposals are as follows:

Offeror	Technical Score	Price
University Research	91.1	\$9,628,760
ETP Inc.	86.7	7,516,288
Super Teams	83.8	7,901,586

The agency determined that, based on the evaluation of the responses to the technical questions, as well as the closeness in point score, the proposals of ETP and University Research were technically equal. In view of ETP's lower cost, the agency determined that ETP's proposal offered the best value to the government. CSAP notified offerors of its award to ETP and this protest followed.

Super Teams first argues that if a 4.4-point difference makes two proposals technically equal, its smaller 2.9-point difference from ETP, must make its proposal technically equal to ETP's technical proposal.

Here, Super Teams does no more than assume that the 2.9-point difference in technical point scores between it and ETP must demonstrate technical equality because ETP and a technically higher-ranked proposal were judged technically equal with a point difference of 4.4. In making a source selection, closeness of point scores does not necessarily indicate that proposals are essentially equal. M.D. Oppenheim & Co., P.A., 70 Comp. Gen. 213 (1991), 91-1 CPD ¶ 98; Moorman's Travel Serv., Inc.--Recon., B-219728.2, Dec. 10, 1985, 85-2 CPD ¶ 643 (proposals were not considered equal despite the fact that they differed by .5 points on a 100-point scale). Point scores should be used as a guideline for intelligent decision-making by source selection officials. Id. Whether a given point spread between competing proposals indicates a significant superiority of one proposal over another depends upon the facts and circumstances of each procurement and is primarily a matter within the discretion of the procuring agency. Jack Faucett Assocs.--Request for Recon., B-233224.2, June 12, 1989, 89-1 CPD ¶ 551.

In this case, the contracting officer specifically found Super Teams's proposal not to be essentially equal to the awardee's proposal despite the closeness in point scores. Rather, the contracting officer determined that there was a significant difference in technical merit between the Super Teams and ETP proposals and supports this difference in the narrative summaries and the reviews of technical questions. The protester does not question or object to any issues of technical merit noted in the narratives. Accordingly, Super

Teams has not provided any basis to show that the contracting officer's judgment was unreasonable, and we see no reason to question the agency's determination.

Second, Super Teams argues that the evaluation of its proposal was flawed because the agency decided not to point score the responses to the technical questions, the scenario and the BAFOs. Point scores are not required and even where point scores are used, as stated above, they are only guidelines for intelligent decision-making; other methods for rating proposals are acceptable so long as the method chosen enables the agency's contracting officials to gain a clear understanding of the relative merits of the competing proposals. Network Sys. Solutions, Inc., B-249733, Dec. 14, 1992, 92-2 CPD ¶ 410.

The record shows that CSAP's evaluators carefully reviewed the technical responses, preparing detailed narrative statements regarding the relative merit of each offer based on the evaluation criteria outlined in the RFP. Nothing in the record suggests that the evaluators did not adequately examine the proposals, or that the narrative evaluations did not accurately reflect the merits of the proposals. This being the case, we have no basis for objecting to the agency's decision not to use point scoring for the evaluation of technical questions.

Super Teams also argues that the technical questions and scenario were not within the scope of the RFP evaluation criteria. The technical questions, prepared in response to the original proposals, asked that offerors address those areas of their proposals which were judged unclear or weak by the independent reviewers. For example, Super Teams was asked questions concerning its approach to establishing links with the religious and business communities; its heavy reliance on a subcontractor and the agency's belief that this subcontractor's contacts were not sufficiently varied to meet the requirements of the RFP; the role of facilitators versus trainers and Super Teams's more traditional training staff's ability to adopt facilitator roles and differences between situational analysis processes and traditional needs assessment and Super Teams's ability to conduct the situational analysis process. Answers to these questions reasonably served to provide the agency with additional information relating to the evaluation criteria concerning the offeror's technical approach to the problem, its understanding of the problem and its personnel..

Similarly, in the scenario, the agency outlined a situation and asked each offeror to illustrate how the approach it had taken to complete the requirements of the RFP would apply and to specify the roles of key staff members. Responses to the scenario directly relate to the offeror's technical

approach, its understanding of the problem and its personnel. Under these circumstances, we see no reason to object to the agency's use of offerors' responses to these questions and to the scenario in the evaluation of proposals.

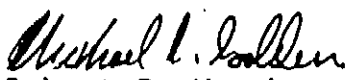
Finally, the protester argues that "in accordance with direction from" the agency, it agreed to increase consultant honoraria from \$200 to \$250 a day and travel expenses from \$500 to \$625 a trip. While the agency characterizes its discussions on these issues as a "recommendation" or "suggestion," the protester argues that the agency is "always in control of the negotiations and invariably convinces the offeror of the correctness of the contracting officer's position." To support its original costs for consultant honoraria and travel, Super Teams states that company travel records reflect an average cost of \$388 for travel in 1992; \$372 for travel in 1993; and, \$402 for travel in 1994. Additionally, company records reflect honoraria payments between \$150 and \$200 for 1991 through 1994. Only seven consultants were paid \$250 for work performed in 1993 and 1994.

We see no basis to conclude that Super Teams was misled or "directed" to make inappropriate cost increases. The record shows that both Super Teams's and ETP's initial costs were significantly lower than the government estimates and that, in the technical questions, Super Teams was cautioned that its consultant fees appeared too low and asked to clarify its "room and board" costs and its "transportation" costs.¹ In response, Super Teams stated that it should have used \$250 for its consultant fees. In the November negotiations, Super Teams did not confirm this response and was questioned again regarding its consultant fees. Under no reasonable interpretation of the record can the agency be said to have instructed or directed Super Teams to increase these prices. If Super Teams had evidence demonstrating that it could perform the contract at the costs it initially proposed, it had the option to submit this information to the agency in

¹The specific question regarding consultant fees, for example, was "[c]onsultant fees appear to be too low for the experience required for consultants/trainers in the [statement of work], please address."

response to the request that it address its initially low consultant fees and transportation costs. We see nothing objectionable in the agency's actions.

The protest is denied.²


60 Robert P. Murphy
General Counsel

²In its comments on the agency report, Super Teams argues for the first time that although CSAP concluded discussions with Super Teams on November 8 and Super Teams delivered its BAFO to the agency on November 9, the agency improperly continued to conduct discussions and negotiations with other offerors through November 14. This ground of protest, based on information in the agency report, is untimely since Super Teams did not raise this protest ground until April 11, more than 10 working days after receipt of the agency report. 4 C.F.R. § 21.2(a)(2) (1995). In any event, we note that the record shows that the agency established a common BAFO closing date of November 15.